

Attorney Docket No. 31957.8010US1

**REMARKS**

In the 9 May 2003 Notice, the Office objected to the Amendment because the claims did not include a status identifier. The first paragraph of this Notice specifically acknowledges that the amendment should be entered if it either complies with a) the current requirements of 37 C.F.R. § 1.121, or b) the guidelines of the voluntary revised amendment practice published at 1267 Off. Gazette 106. In a response filed 28 May 2003 (the Response), the undersigned explained that the Amendment complied with the requirements of 37 C.F.R. § 1.121.

Supervisory Patent Examiner Alan Shoap called the undersigned on 30 June 2003 regarding this application. He explained that the Office still objects to the Amendment because it included neither the claim identifiers called for under the voluntary revised practice nor an appendix including a marked-up version of the claims showing the amendments made. The undersigned explained that the amendment only cancelled claims, so no appendix is required under the current rule. Examiner Shoap called again on 1 July 2003 to explain that the Office requires a supplemental response to the 9 May 2003 Notice, submitting claims in compliance with the voluntary revised practice. He also said that the Office considers the due date for such a response to continue to run from the mailing date of the 9 May 2003 Notice.

The Amendment filed 18 April 2003 is in full compliance with the current Patent Office rule for claim amendments, 37 C.F.R. § 1.121(c). Following is a reproduction of 37 C.F.R. § 1.121(c) with the pertinent passages highlighted:

(c) *Claims.* —

(1) *Amendment by rewriting, directions to cancel or add.* Amendments to a claim must be made by rewriting such claim with all changes (e.g., additions, deletions, modifications) included. The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. **A claim may also be canceled by an instruction.**

(i) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim

Attorney Docket No. 31957.8010US1

number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").

- (ii) If a claim is amended by rewriting such claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim. A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(i) of this section and the marked up version under this paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. **A marked up version does not have to be supplied for an added claim or a canceled claim as it is sufficient to state that a particular claim has been added, or canceled.**
- (2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.
- (3) **A clean version of the entire set of pending claims may be submitted in a single amendment paper.** Such a submission shall be construed as directing the cancellation of all previous versions of any pending claims. **A marked up version is required only for claims being changed by the current amendment (see paragraph (c)(1)(ii) of this section).** Any claim not accompanied by a marked up version will constitute an assertion that it has not been changed relative to the immediate prior version.

The Amendment cancelled claims 24-30, 38, and 40-43, but did not amend any of the remaining claims. For the Examiner's convenience, the Amendment included a listing of all of the pending claims for the Examiner's convenience. (See 37 C.F.R. § 1.121(c)(3).) None of the remaining claims required a marked-up version because they were not amended, so no appendix was included with the Amendment.

The undersigned again submits that the Amendment fully complied with 37 C.F.R. § 1.121(c) and the 9 May 2003 Notice was erroneously issued. Since the Notice should never have been issued and the undersigned filed an appropriate response on

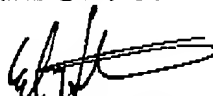
Attorney Docket No. 31957.8010US1

28 May 2003, the undersigned respectfully requests waiver of any extension of time fee otherwise necessary for this supplemental response to be deemed timely. In the event the Office refuses to waive the extension fee, such extension fee may be charged to Deposit Account No. 50-0665.

The undersigned respectfully requests that the Office enter the Amendment for prompt consideration by the Examiner. If the Examiner or anyone else at the Office has any questions or would like to discuss this case, the undersigned would welcome a call at (206) 264-3848.

Respectfully submitted,

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